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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,236	08/05/2003	Stefan Eichhorst	5362-000469	6402
27572	7590	06/02/2005	EXAMINER	
HARNES, DICKEY & PIERCE, P.L.C.			BLANKENSHIP, GREGORY A	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	

3612

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,236

Applicant(s)

EICHHORST ET AL.

Examiner

Greg Blankenship

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 4/12/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4,5,8-12 and 15-20 is/are allowed.
- 6) ☒ Claim(s) 1-3,6,7,13,14 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-4, 6, 7, 13, 14, and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is not clearly understood since the phrase “a modular support member acting as a seat back panel” is misleading and unclear. First, “acting as a seat back panel” is unclear since it is unclear if this requires the “modular support panel” to be a panel. The term “seat back panel” is misleading since it does not appear that this panel is used to form a support for the back portion of a seat. The examiner recommends changing the phrase to read “a modular support panel”.

Claim 6 is not clearly understood since “said preassembled, modular member” lacks clear antecedent basis. It is unclear if this should be “said convertible top assembly” or “said bulkhead panel member”.

Claim 14 is not clearly understood since the term “seat back panel” is misleading for the reason stated above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Just et al. (6,443,517).

Just et al. disclose a modular convertible assembly having a modular support member (3) that has a vertical panel portion, shown in Figure 1. The vertical panel portion extends between the floor and the vehicle's beltline. This vertical panel portion is capable of being removed and acts as a seat back panel and a bulkhead panel. A linkage assembly LT, a hydraulic control system, and an electronic control unit (10) are attached either directly or indirectly to the support member (3). Latches (8) are attached to the roof panels (2). The electronic control unit provides the only connection between the vehicle's electrical system and the modular convertible assembly. The linkage assembly supports the roof panels (2). Bolt holes (11) are provided as attachment points.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Wolf et al. (5,881,458).

Just et al. does not disclose the claimed speakers.

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Wolf et al. teach the addition of speakers (14) to a wall (6) that defines part of a convertible top storage container.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to mount the speakers to the removable panel of Just et al., as taught by Wolf et al., to reduce assembly time and to save space.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Okada et al. (6,454,344), further in view of the 2001 Ford Mustang convertible.

Just et al. does not disclose a latch mechanism that is controlled by the electronic control unit nor a window defroster.

Okada et al. teach a convertible top latch mechanism (5) that is controlled by an electronic control unit (7)

The 2001 Ford Mustang convertible has a window defroster.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect a window defroster to the electronic control unit of Just et al., as taught by the 2001 Ford Mustang convertible, to reduce the time and effort needed to clear frost from the window,

and it would have been obvious to one of ordinary skill in the art at the time the invention was made provide actuators for the convertible top latches of Just et al., as taught by Okada et al., that are electrically connected to the electronic control unit of Just et al., to make operating of the convertible roof easier for passengers.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Just et al. (6,443,517) in view of Neubrand (6,217,104).

Just et al. do not disclose the roof being made of at least two hard top panels.

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Neubrand teaches the use of rigid panels to form a convertible roof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use rigid panels to form the convertible roof of Just et al., as taught by Neubrand, to provide a more aesthetically pleasing roof that also provides better protection from environmental hazards.

Allowable Subject Matter


9. Claims 4, 5, 8-12, and 15-20 are allowed.
10. Claims 6, 7, 13, and 14 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is 571-272-6656.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gab
May 31, 2005


GREGORY BLANKENSHIP
PATENT EXAMINER